

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James John Rud, Brian Keith Hausfeld, Joshua Adam Gardner, Dwane David Peterson, Lynell Dupree Alexander, and Andrew Gary Mallan, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

Nancy Johnston, Executive Director, Minnesota Sex Offender Program, and Jodi Harpstead, Department of Human Services Commissioner, *in their individual and official capacities*,

Defendants.

Civil File No. 0:23-cv-00486-JRT-LIB

**JOINT STIPULATION TO EXTEND
TIME TO RESPOND TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT**

Plaintiffs James John Rud, Brian Keith Hausfeld, Joshua Adam Gardner, Dwane David Peterson, Lynell Dupree Alexander, and Andrew Gary Mallan (“Plaintiffs”) and Defendants Nancy Johnston and Jodi Harpstead, sued in their official capacities (“Official-Capacity Defendants”), hereby state and stipulate as follows:

WHEREAS, Plaintiffs Rud and Hausfeld filed a putative class action complaint against Official-Capacity Defendants on February 21, 2023, in Hennepin County District Court, which Defendants subsequently removed to this Court on March 1, 2023 (ECF No. 1);

WHEREAS, Official-Capacity Defendants filed a motion to dismiss Plaintiffs Rud and Hausfeld’s initial complaint on March 8, 2023 (ECF No. 21);

WHEREAS, the Court granted Official-Defendants' motion to dismiss in part and denied it in part on September 28, 2023 (ECF No. 73);

WHEREAS, the Court's Order, in part, permitted Plaintiffs to file an amended complaint to add individual capacity claims against Harpstead and Johnston within 30 days (ECF No. 73);

WHEREAS, on October 30, 2023, Plaintiffs filed the First Amended Complaint with the consent of Official-Capacity Defendants pursuant to the Court's Order and Fed. R. Civ. P. 15(a)(2) (ECF No. 77);

WHEREAS, the First Amended Complaint asserts claims against Defendants in their individual capacities (ECF No. 77);

WHEREAS, pursuant to Fed. R. Civ. P. 15(a)(3), Official-Capacity Defendants' current deadline to answer or otherwise respond to the Amended Complaint is November 13, 2023;

WHEREAS, Individual-Capacity Defendants have not yet been served with the First Amended Complaint or waived service of the First Amended Complaint;

WHEREAS, Individual-Capacity Defendants accordingly do not yet have any deadline to answer or otherwise respond to the First Amended Complaint;

WHEREAS, Official-Capacity Defendants met and conferred with Plaintiffs on November 7, 2023, and Official-Capacity Defendants informed Plaintiffs that they plan on filing a new motion to dismiss;

WHEREAS, it is expected that the responses of the Individual-Capacity Defendants and the Official-Capacity-Defendants will have significant overlap in arguments;

WHEREAS, the Minnesota Attorney General’s Office anticipates it will represent the Individual-Capacity Defendants once the statutory indemnification and certification process set forth in Minn. Stat. § 3.736 is complete;

WHEREAS, if and when the Minnesota Attorney General’s Office represents the Individual-Capacity Defendants, the Minnesota Attorney General’s Office intends to waive service on behalf of the Individual-Capacity Defendants and submit one joint response on behalf of the Individual- and Official-Capacity Defendants;

WHEREAS, a joint response deadline for the Individual- and Official-Capacity Defendants would avoid piecemeal litigation, promote judicial efficiency, and conserve the resources of the parties;

WHEREAS, Plaintiffs and Official-Capacity Defendants accordingly agree there is good cause to extend the deadline for Official-Capacity Defendants to answer or otherwise respond to the First Amended Complaint to December 1, 2023;

NOW THEREFORE, the parties jointly propose that the Court enter an order that:

1. The time for Official-Capacity Defendants to answer or otherwise respond to the First Amended Complaint is extended to December 1, 2023.

SO STIPULATED.

[Signatures on next page]

For Plaintiffs

Dated: November 8, 2023

/s/ Dan Gustafson

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For Official-Capacity Defendants

Dated: November 8, 2023

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